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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,067	10/10/2001	William D. Swart	007412.00793	5257
71867 7590 07/23/2010 BANNER & WITCOFF, LTD ATTORNEYS FOR CLIENT NUMBER 007412 1100 13th STREET, N.W. SUITE 1200 WASHINGTON, DC 20005-4051			EXAMINER SALTARELLI, DOMINIC D	
			ART UNIT 2421	PAPER NUMBER
			MAIL DATE 07/23/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/973,067

Applicant(s)

SWART ET AL.

Examiner

DOMINIC D. SALTARELLI

Art Unit

2421

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-10 and 12-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-10 and 12-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/02)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114 was filed in this application after appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on July 11, 2010 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1 and 10 have been considered but are moot in view of the new grounds of rejection. Applicant's amendments that specify that auxiliary services are specified via parameters within the request received from the user rather than simply being inferred (such as when determining which advertisements to insert into a video stream) necessitated the new grounds of rejection herein in view of Baji, who provides a teaching that it is known in the art to specify preferred advertisements via information sent from a subscriber to a headend.

3. Applicant's arguments filed July 11, 2010 regarding claim 9 have been fully considered but they are not persuasive. Applicant argues here that Hendricks fails to disclose the claimed limitation of "reading target content routing address information, and configuring one or more target content routers based on the address information",

contending that the cited passages of Hendricks merely describes determining whether there is a link available to distribute a program.

In response, column 19 of Hendricks is a showing that in addition to sending content directly to remote headends, valid destinations include individual households. Column 10, lines 24-29, state: "The output equipment 320 received programs and data from either the storage device 308 or the system controller 312. The output equipment 320 must receive the programs and data and determine the proper output connection to send the programs and data to remote sites 208, such as cable headends." When the destination is a specific household, given the sheer volume of available households to send content should the operations center be doubling as a cable headend as well, it cannot be assumed that the output equipment would have a dedicated link to each household such that a content router would not need to be configured to send the content to said household.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3-10, and 12-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (5,600,573, listed on the IDS submitted July 23,

2002) [Hendricks] in view of Smith et al. (6,088,732, of record) [Smith] and Baji et al. (5,027,400) [Baji].

Regarding claims 1 and 10, Hendricks discloses an apparatus (fig. 2, operations center 202, col. 21, lines 10-37) comprising:

a processor configured to execute at least one software module that causes the apparatus to:

provide two different formats for content storage (the apparatus supports both MPEG and ATM formats, col. 11 line 61 – col. 12 line 3);

receive a coding and formatting request (system controller 312 sends a coding and formatting request for content to output equipment 320, col. 14 line 59 – col. 15 line 46 and col. 24, lines 43-64);

analyze parameters contained in the coding and formatting request (output command and control module 500, col. 14, lines 20-38);

decode, format in the two different format for content storage and code target content (receiver 300 or equally, output equipment 320);

route the coded target output content to one or more target addresses (output equipment 320, col. 10, lines 24-38);

analyze auxiliary service requests in the coding and formatting request (the same means identified above which analyze the coding and formatting requests will analyze the auxiliary service requests found in the coding and formatting request, said auxiliary services relating to advertisement insertions

determined by the CAP, col. 10, lines 39-67, col. 13, lines 42-65, and col. 17, lines 49-67);

configuring auxiliary services processors to supply the requested auxiliary services (via the same configuring means identified above); and

outputting the requested auxiliary services, whereby the outputted auxiliary services are combined with the coded target output content (via the same routing means identified above).

Hendricks fails to disclose the coding and formatting request originates from a user and analyzing auxiliary service requests in the coding and formatting request is specifically based on the analysis of parameters contained in said request.

In an analogous art, Smith teaches transmitting upstream, from users, content coding and formatting requests specifying desired content coding and formats, allowing users to specify precisely the manner in which they desire content to be delivered (col. 5 line 41 - col. 6 line 61, specifically the profiles which are sent upstream to an information source when the comparator is located at the information source along with a request for content, said profiles specifying the content coding and formatting desired by a user).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and apparatus of Hendricks for the coding and formatting request to originate from a user, as taught by Smith, for the benefit of granting

individual users enhanced control over the coding and formatting of content delivered to their homes.

Hendricks and Smith fail to disclose the step of analyzing auxiliary service requests in the coding and formatting request is specifically based on the analysis of parameters contained in said request.

In an analogous art, Baji teaches a system wherein information sent from a user to a headend also includes parameters specifying desired types of advertising (col. 4, lines 13-18), allowing a headend to know which types of advertising are actively preferred by a requesting subscriber which assists in targeting advertisements to subscribers for greatest effectiveness.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and apparatus of Hendricks and Smith to include the step of analyzing auxiliary service requests in the coding and formatting request is specifically based on the analysis of parameters contained in said request, as taught by Baji, for the benefit of actively informing a headend to know which types of advertising are preferred by a requesting subscriber which assists in targeting advertisements to subscribers for greatest effectiveness.

Regarding claims 3 and 12, Hendricks, Smith, and Baji disclose the method and apparatus of claims 1 and 10, further parsing auxiliary services and auxiliary service time code data (the apparatus determines both the

advertisements to be inserted, the length of the advertisements, and when they should be inserted, Hendricks, col. 17, lines 49-67).

Regarding claims 4 and 13, Hendricks, Smith, and Baji disclose the method and apparatus of claims 3 and 12, further comprising synchronizing the auxiliary service time code data and content time code data (the apparatus creates a schedule of programming that interleaves content and advertisements, Hendricks, col. 17, lines 49-67 and col. 19, lines 9-36).

Regarding claims 5 and 16, Hendricks, Smith, and Baji disclose the method and apparatus of claims 1 and 10, wherein the auxiliary services comprises advertising (Hendricks, col. 17, lines 49-67).

Regarding claims 6 and 14, Hendricks, Smith, and Baji disclose the method and apparatus of claims 1 and 10, whereby auxiliary services are combined with requested source content (Hendricks, col. 7, lines 5-25 and col. 9, lines 50-67), further comprising:

separating the auxiliary services from the requested source content (the apparatus parses and separates content into individual programs and advertisements for storage, Hendricks, col. 9, lines 65-67, "The storage device 308 stores some or all of the received programs and advertisements 212.", see also Hendricks, col. 11, lines 1-17 and col. 11 line 47 – col. 12 line 17);

processing the separated auxiliary service (advertisements are processed separately, Hendricks, col. 17, lines 49-67); and

combining selected separated auxiliary services with the coded target output content (Hendricks, col. 10, lines 52-55 and col. 17, lines 49-67).

Regarding claims 7 and 15, Hendricks, Smith, and Baji disclose the method and apparatus of claims 1 and 10, wherein the requested auxiliary services are separate from the requested content (advertisements are individually selectable and stored independently of other content in the storage device 308, Hendricks, col. 17, lines 49-67), further comprising:

formatting and coding the requested auxiliary services (Hendricks, col. 12 line 59 – col. 13 line 6); and

combining the requested formatted and coded auxiliary services and the coded target output content (Hendricks, col. 14, lines 15-38).

Regarding claims 8 and 17, Hendricks, Smith, and Baji disclose the method and apparatus of claims 1 and 10, wherein upon receiving a formatting and coding request, formatting and coding means are identified (output means comprises a large number of duplicated components, Hendricks, col. 15, lines 31-46, wherein output equipment control means must send configuration information to the output equipment for accomplishing multiple tasks

concurrently, col. 13, lines 18-33), but fails to disclose said identification is performed by a polling means.

It is notoriously well known in the art to poll electronic devices to receive status information.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and apparatus disclosed by Hendricks, Smith, and Baji to identify formatting and coding means via polling means.

Regarding claims 9, 18, and, 19, Hendricks, Smith, and Baji disclose the method and apparatus of claims 1 and 10, further comprising reading target content routing address information and means for routing target content based on the address information (in addition to sending certain programming packages to certain cable headends, Hendricks, col. 10, lines 24-38 and col. 19, lines 9-35, the apparatus also routes specifically requested video on demand programs to subscriber sites, col. 19, lines 36-54).

Regarding claim 20, Hendricks, Smith, and Baji disclose the apparatus of claim 10, wherein the parameter contained in the coding and formatting request comprises format description (see Hendricks, col. 11, lines 46-60, col. 12, lines 59-65, col. 13, lines 34-41, or col. 14, lines 20-38).

Regarding claim 21, Hendricks, Smith, and Baji disclose the apparatus of claim 10, but fails to disclose applying forward error correction coding to target output content.

However, Hendricks does disclose a quality control module which performs quality control functions on output content (col. 14, lines 39-58). Forward error correction is notoriously well known in the art to maintain the quality of outgoing digital data.

It would have been obvious at the time to a person of ordinary skill in the art to modify the apparatus disclosed by Hendricks to applying forward error correction coding to target output content, for the benefit of maintaining the quality of outgoing digital content.

Regarding claim 22, Hendricks, Smith, and Baji disclose the apparatus of claim 10, wherein the target addresses include an aggregator local storage (Hendricks, col. 12, lines 4-17) or a user terminal (for filling a video on demand request, Hendricks, col. 19, lines 36-54).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOMINIC D. SALTARELLI whose telephone number is (571)272-7302. The examiner can normally be reached on Monday - Friday 9:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dominic D Saltarelli/
Primary Examiner, Art Unit 2421